

## **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Christine Carlucci and Gerard Carlucci

For: Medical Tubing Securing Device

Serial No.: 09/930,398

Filed: August 15, 2001

Group: 3761

Atty Docket: 262.801

### **Declaration in Support of Petition to Vacate Final Rejection**

Marguerite Del Valle hereby declares as follows:

1. I am an attorney admitted to practice in the United States Patent and Trademark Office. I have been representing the applicants in this case since it was filed, and have personal knowledge of the facts stated below.

2. On August 15, 2001, I filed the above identified application. I received a first office action rejecting the claims under § 102 in view of US Patent 6,269,814 to Blaszczykiewicz, mailed on October 29, 2002.

3. I responded to the outstanding office action on January 28, 2003. I received a final office action, mailed on April 9, 2003, rejecting the claims under § 103 in view of the Blaszczykiewicz patent.

4. On September 9, 2003, I filed an appeal brief.

5. The final rejection was withdrawn on November 28, 2003 in the third office action in this case. The examiner then rejected the claims under § 102 in view of US Patent 5,411,484 to Shattuck, and under § 103 in view of the Shattuck patent taken with US Patent 3,878,849 to Muller. I filed a response to that office action on February 25, 2004.

6. I received the fourth office action in this case, the second final rejection, mailed on May 18, 2004, rejecting the claims under § 102 in view of the Shattuck patent taken with a

new reference, US Patent 5,154,690 to Shiono.

7. I filed an appeal brief on October 18, 2004.

8. I then received the fifth office action, mailed January 1, 2005, reopening prosecution, wherein the examiner rejected the claims under § 102 in view of the Shattuck patent, further under § 102 in view of US Patent 4,723,325 to Perry, and under § 103 in view of the Shattuck patent taken with the Muller patent.

9. I responded to that office action on May 11, 2005. The examiner issued the sixth office action, which was the third final rejection on the claims, on August 19, 2005, withdrawing the previous rejections and citing new grounds, US Patent 5,446,953 to LeFeber, to reject the claims under § 102.

10. I then filed a Request for Continuing Application on November 7, 2005, including a preliminary amendment. On January 20, 2006, the examiner rejected the claims again, in the seventh office action in this case, under the LeFeber patent.

11. I responded to the office action on April 12, 2006. On July 11, 2006, the examiner issued the eighth office action, which was the fourth final rejection, rejecting the claims on new grounds, US Patent 5,117,510 to Broussard.

12. The Broussard patent, however, had been included by the applicants in an information disclosure statement, filed on November 11, 2001. The examiner had never previously applied it to the claims at issue.

13. On August 11, 2006, I filed a request for withdrawal of the final rejection as premature and requested that the examiner reconsider the rejection in view of the comments submitted. The examiner has not yet acted on applicants' request.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

September 11, 2006

/s/ Marguerite Del Valle